

REMARKS

Claims 1-15 and 26-30 are pending. Claims 1-7 and 9-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,546,523 to Gatto in view of U.S. Patent No. 6,028,950 to Merjanian. Claims 8 and 26-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,546,523 to Gatto in view of U.S. Patent No. 6,028,950 to Merjanian and U.S. Patent No. 5,485,510 to Colbert.

Reconsideration is requested. No new matter is added. The rejections are traversed. Claims 31-34 are added. Claims 1-15 and 26-34 remain in the case for consideration.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(a)

RESPONSE REGARDING CLAIMS NEVER SPECIFICALLY REJECTED

The Applicant notes again that while claims 1-7 and 9-15 stand rejected under 35 U.S.C. § 103(a), the limitations from claims 2-3, 5-6, and 8-15 have not been addressed in the rejection.

INTERVIEW SUMMARY

On April 14, 2004, the undersigned and Examiner Hayes held an interview. All the claims were discussed, with specific reference to claim 1. The undersigned and the Examiner discussed the Examiner's response to the arguments presented in the Preliminary Amendment filed October 3, 2003, made in the Examiner's response in the Office Action dated December 2, 2003. The Applicant argued that Gatto teaches forwarding the payor financial account from the financial transaction processor, which is also what performs biometric verification in Gatto. In contrast, claim 1 describes the payor financial account being forwarded *from the electronic third party identifier*, which is distinct from the financial transaction processor. The Examiner generally agreed with this argument, but wanted to review the prior art before agreeing that the claims were allowable over the prior art.

NEW CLAIMS 31-34

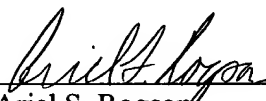
New claims 31-34 are supported by the specification. New claims 31 and 33 add the feature of an account index code, described in the specification at page 29, lines 1-5. In U.S. Patent Application Serial No. 09/879,370, now U.S. Patent No. 6,662,166, the Examiner has indicated that this feature is not taught by the prior art, so claims 31 and 33 should be allowable over the prior art.

New claims 32 and 34 add the feature of cash back as part of the transaction amount, described in the specification at page 8, lines 11-12. This feature was previously found in U.S. Patent Application Serial No. 09/879,370, now U.S. Patent No. 6,662,166 in claim 16, which was canceled prior to the patent issuing. The Applicant notes that a terminal disclaimer was filed in U.S. Patent Application Serial No. 09/879,370, now U.S. Patent No. 6,662,166 over U.S. Patent No. 5,870,723; the Examiner may want to consider whether a double patenting rejection over the '723 patent is appropriate in this patent application.

For the foregoing reasons, reconsideration and allowance of claims 1-15 and 26-34 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.


Ariel S. Rogson
Reg. No. 43,054

MARGER JOHNSON & McCOLLOM, P.C.
1030 SW Morrison Street
Portland, OR 97205
503-222-3613
Customer No. 20575

I HEREBY CERTIFY THAT
THIS CORRESPONDENCE IS
BEING DEPOSITED WITH THE
UNITED STATES POSTAL
SERVICE AS FIRST CLASS
MAIL IN AN ENVELOPE
ADDRESSED TO:

☐ COMMISSIONER OF PATENTS
AND TRADEMARKS WASHINGTON
D.C. 20231

☒ MAIL STOP *New Fee Amendment*
COMMISSIONER FOR PATENTS
BOX 1450
ALEXANDRIA, VA 22313-1450

☐ BOX
COMMISSIONER
FOR TRADEMARKS 2000 CRYSTAL
DRIVE ARLINGTON, VA 22202-3513

OK 12/1/04
